

REQUEST FOR COUNCIL ACTION

Subject:

Approval of a Cooperative/Maintenance Agreement between the Utah Department of Transportation and the City of West Jordan for the construction of the Jordan River Trail Pedestrian Box Culvert at 890 West 9000 South State Route 209

Discussion:

The City of West Jordan desires to construct the Jordan River Trail between 8300 S and 9000 S. In order to construct this section of trail, the City is in need of acquiring a Cooperative/Maintenance Agreement from the Utah Department of Transportation prior to construction.

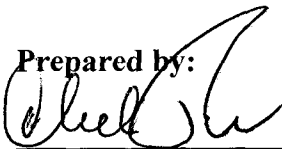
Fiscal Impact:

Funds for construction of the Jordan River Trail Project are provided from several agencies and the West Jordan "Open Space" fund as previously approved by the City Council. No fees are required for securing this Cooperative/Maintenance Agreement.

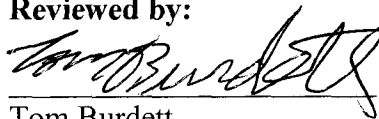
Recommendation:

Staff recommends approval of this Cooperative/Maintenance Agreement for the construction of the Jordan River Trail Pedestrian Box Culvert at 890 West 9000 South State Route 209.

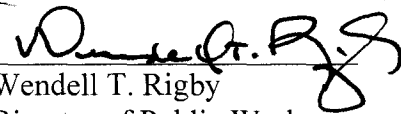
- ☐ Motion
"I move to adopt Resolution No. 14-37, authorizing and directing the Mayor to sign the attached Cooperative/Maintenance Agreement from the Utah Department of Transportation for the construction of the Jordan River Trail Pedestrian Box Culvert at 890 West 9000 South State Route 209.
- ☐ Roll Call

Prepared by:

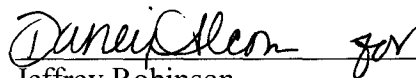
Charles Tarver
CDBG/Grants Manager

Reviewed by:

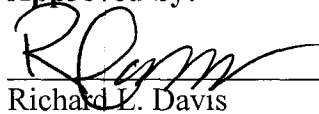
Tom Burdett
Development Director



Wendell T. Rigby
Director of Public Works

Approved as to Legal Form by:

Jeffrey Robinson
City Attorney

Approved by:

Richard L. Davis
City Manager

Narrative:

The City is proposing to construct the Jordan River Trail between 8300 S and 9000 S to provide a continuous trail between the North and South boundary of the City. Funding for this project is being provided through the West Jordan Open Space fund, Utah State Legislature, Salt Lake County, Sandy City, State Parks Non-Motorized Trail Program, LeRay McAllister Open Space Fund and the Rotary Club.

In order to complete this project, the City is in need of securing a Cooperative/Maintenance Agreement from the Utah Department of Transportation. This Cooperative/Maintenance Agreement will allow for the construction of a Pedestrian Box Culvert at 890 West 9000 South State Route 209. In addition, upon completion, this agreement will provide for future maintenance/repair of the Jordan River Trail Pedestrian Box Culvert crossing under 9000 South.

As stated in Section 4 of the agreement, the City shall maintain the pedestrian/bicycle path, box culvert, retaining walls, fencing, lighting, drainage, shoulders and landscaping adjacent to the path, and all other appurtenances to the path within the UDOT right-of-way.

The agreement further states that when a UDOT road widening project occurs over the box culvert, the City will extend the box culvert to the required width and modify the path and appurtenances as required to accommodate the widening project at the City's sole expense.

This Cooperative/Maintenance Agreement, as attached, has been reviewed by the West Jordan Attorney's Office. No other fees are required for the securing of this Agreement.

THE CITY OF WEST JORDAN, UTAH

A Municipal Corporation

RESOLUTION NO. 14-31

**A RESOLUTION TO ENTER INTO A COOPERATIVE/MAINTENANCE
AGREEMENT WITH THE UTAH DEPARTMENT OF TRANSPORTATION**

Whereas, the City of West Jordan has an approved budget to construct its Jordan River Trail project (the "Project"); and

Whereas, the Project requires the acquisition of an Cooperative/Maintenance Agreement for construction and maintenance of a Pedestrian Box Culvert at 890 West 9000 South State route 209; and

Whereas, Utah Department of Transportation has agreed to convey a Cooperative/Maintenance Agreement to the City based on the terms and conditions stated in the agreement attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST JORDAN, UTAH, THAT:

Section 1. The Mayor is hereby authorized and directed to sign the attached Cooperative/Maintenance Agreement with the Utah Department of Transportation so the City can complete the Jordan River Trail Project.

Section 2. This resolution shall take effect immediately.

Adopted by the City Council of West Jordan, Utah, this 26th day of February, 2014.

CITY OF WEST JORDAN

ATTEST:

By: _____
Kim V. Rolfe, Mayor

MELANIE S. BRIGGS, MMC
City Clerk/Recorder

Voting by the City Council

"AYE"

"NAY"

Jeff Haaga

Judy Hansen

Chris McConnehey

Chad Nichols

Ben Southworth

Justin D. Stoker

Mayor Kim V. Rolfe

WHEN RECORDED, MAIL TO:
Utah Department of Transportation
Permits Department
2010 South 2760 West
Salt Lake City, Utah 84104

Effecting Tax ID:

**COOPERATIVE/ MAINTENANCE AGREEMENT
PEDESTRIAN BOX CULVERT
890 West 9000 South State Route 209**

THIS AGREEMENT made and entered into this _____ day of _____, 2014 by and between the **UTAH DEPARTMENT OF TRANSPORTATION** ("UDOT"), a state agency of the State of Utah, and **West Jordan** ("City"), a political subdivision of the State of Utah.

WHEREAS, the UDOT owns the right-of-way for State Route 209 and the City wishes to install or have installed within the right-of-way of State Route 209 at 890 West 9000 South, in West Jordan, Salt Lake County, Utah, a pedestrian box culvert as shown on the attached plans and described in Exhibit A, which is incorporated by reference; and

WHEREAS, the UDOT is willing to permit the construction, installation, use, operation, repair and maintenance of the pedestrian box culvert within the right-of-way of State Route 209 at 890 West 9000 South in accordance with the terms and conditions of this Agreement; and

WHEREAS, this Agreement is made to set forth the terms and conditions pursuant to which the construction, installation, repair and maintenance of the box culvert shall be performed and the conditions the City shall access, use and operate the pedestrian box culvert.

In consideration of the terms and conditions of this Agreement, UDOT and City agree as

follows:

1. UDOT, subject to the terms and conditions of this Agreement, grants nonexclusive temporary access over, across and, to the extent specified in the Tunnel Detail and Construction Plans ("Plans") contained in Exhibit A solely for the purposes of the design, construction and installation of the pedestrian box culvert. All of the construction and installation shall be performed in strict compliance with the Plans. UDOT personnel have the right but not the obligation to inspect and monitor the construction, installation and maintenance of the box culvert. During construction and installation, the City shall address any safety concerns UDOT has concerning the stability or construction of the box culvert structure.

2. Utilities which may be affected by the wall, shall be located and avoided by the City. Further, if the utilities cannot be avoided they shall be moved at the City's expense. This agreement in no way cancels or negates public or private utilities, including UDOT, from entering upon said right of way to construct, reconstruct, repair or inspect their facilities. At no time, will debris and construction material be allowed within the UDOT right-of-way.

3. After construction, maintenance and repair access to the box culvert site shall be permitted from the property side only, not from the UDOT right-of-way. Further, equipment shall not be allowed on the travel portion, ramp or shoulders of the highway or hinder the free flow of traffic in any way.

The City, its employees, consultants and contractors shall abide by all applicable state and federal laws, rules and regulations pertaining to Safety and Traffic Control particularly, but not limited to, the Manual of Uniform Traffic Control Devices in the construction, maintenance and repair work of the installation.

If the City accesses the box culvert from the traveled portion of the UDOT right-of-way or repairs the box culvert, except in cases of emergency, access for maintenance and servicing of the box culvert located on right-of-way will only be allowed by a permit issued by UDOT to the City. The City shall obtain said permit and abide by the conditions for policing and other controls in conformance with Utah Administrative Code R930-7. UDOT will not charge the City for permits to access the box culvert for maintenance or repair.

4. The City shall maintain the pedestrian/bicycle path, box culvert, retaining walls, fencing, lighting, drainage, shoulders and landscaping adjacent to the path, and all other appurtenances to the path within the UDOT right-of-way.

The City must remove graffiti within 48 hours of being notified by UDOT. The City must maintain a legible sign with contact information for graffiti removal. This sign must not be readable by the motorist along the traveled way.

Damages to the tunnel will be repaired within 48 hours regardless of who was responsible for the damage, including any third party accidents. If the right-of-way is a no access (NA) or limited access (LA), temporary fence must be installed within 12 hours to limit access to the highway.

No signs or advertising will be allowed on the box culvert to include subdivision names, street addresses, banners, or flags, in accordance with Utah State Code '72-7-104. The City will remove all advertising within 48 hours of being notified by UDOT.

5. No approval for landscaping is given in this Agreement. A separate agreement for landscaping must be executed by the parties.

6. No gates or opening from private property to UDOT's right-of-way are allowed. If applicable, existing fencing must be left in place to form a continuous no access barrier.

7. UDOT shall remain the owner of the real property upon which pedestrian box culvert is installed. Further, if UDOT must utilize its right-of-way upon which the tunnel is located upon, for any reason and the box culvert must be removed, UDOT will not reimburse the City for the costs to relocate or remove the box culvert. Furthermore, **IF UDOT DETERMINES THAT THE TUNNEL BECOMES A SAFETY HAZARD, THE CITY, AT ITS EXPENSE, WILL REMOVE THE TUNNEL UPON WRITTEN NOTIFICATION BY UDOT.**

When a UDOT road widening project occurs over the box culvert, the CITY will extend the box culvert to the required width and modify the path and appurtenances as required to accommodate the widening project at the City's sole expense.

8. UDOT and CITY are both governmental entities subject to the Governmental Immunity Act. Each party agrees to indemnify, defend and save harmless the other party from and against all claims, suits and costs, including attorneys' fees for injury or damage of any kind, arising out of the negligent acts, errors or omissions of the indemnifying party's officers, agents, contractors or employees in the performance of this Project. Nothing in this paragraph is intended to create additional rights to third parties or to waive any of the provisions of the Governmental Immunity Act. The obligation to indemnify is limited to the dollar amounts set forth in the Governmental Immunity Act, provided said Act applies to the action or omission giving rise to the protections in this paragraph. The indemnification in this paragraph shall survive the expiration or termination of this Agreement.

9. Each party agrees to undertake and perform all further acts that are reasonably necessary to carry out the intent and purposes of the Agreement at the request of the other party.

10. The failure of either party to insist upon strict compliance of any of the terms and

conditions, or failure or delay by either party to exercise any rights or remedies provided in this Agreement, or by law, will not release either party from any obligations arising under this Agreement.

11. This Agreement does not create any type of agency relationship, joint venture or partnership between the parties.

12. Each party represents that it has the authority to enter into this Agreement.

13. This Agreement may be executed in counterparts by the parties.

UTAH DEPARTMENT OF TRANSPORTATION

By: _____
Its: Region Two Director
Date: _____

Recommended for Approval:

By: _____
Its: _____

Approved as to Form:

Assistant Attorney General

WEST JORDAN CITY

By: _____
Its: _____
Date: _____

Approved as to Form:


West Jordan City Attorney

